

Operation Mesco – Kevin Rudd YouTube investigation

The Australian Federal Police (AFP) is conducting an investigation into the possible theft of Commonwealth property in connection with the disappearance of an HDV tape containing footage of the former Prime Minister Kevin Rudd. On 17 February 2012, clips from this tape were uploaded onto YouTube.

The AFP approached AGD about the possibility of making a mutual assistance request to the United States for subscriber and IP information in relation to the YouTube user account. Following discussions with the US, AGD advised the AFP that there was insufficient information to support a request for these records at this time.

- As a matter of long standing practice the Department does not comment on operational law enforcement matters.

[if pressed – AFP investigation]

- We understand that the AFP has accepted this matter for investigation.
- Questions about the AFP investigation should be directed to the AFP.

DRAFT

Version #:1	Cleared by: Anna Harmer	Action officer: Georgia Flynn
Current at: 12 October 2012	Phone number: 6141 3280	Action officer number: 6141 3792

BACKGROUND

Factual background of alleged offence

During his time as Prime Minister, Kevin Rudd made a recording on a mini-HDV tape (the videotape) of himself delivering an address to citizens of the People's Republic of China on the 60th Anniversary of the Chinese Communist Party. The videotape was owned by the Department of the Prime Minister and Cabinet (PM&C). The videotape was labelled and stored in the Office of the Prime Minister in Parliament House in Canberra.

On 17 February 2012 an unknown person using the identifying handle 'HappyVegemiteKR' uploaded a parody video titled 'Kevin Rudd is a Happy Little Vegemite' to YouTube. This YouTube clip contained footage from the videotape.

AFP investigation into the alleged theft of Commonwealth Property

On 15 March 2012 Mr Rudd referred the alleged theft of Commonwealth property (namely, the videotape) to the AFP.

AGD involvement – enquiries with the US Department of Justice

On 11 May 2012 the AFP contacted AGD about the possibility of making a mutual assistance request to the US for subscriber and IP information in relation to the 'HappyVegemiteKR' YouTube user account.

After extensive liaison with the AFP about the progress of the investigation and the relevance of the material to the alleged offence, AGD made enquiries of the US Department of Justice (the Central Authority for US mutual assistance requests) as to whether there was sufficient information currently available to satisfy the US threshold for obtaining the authorisation necessary to compel YouTube to provide this information. On 3 October 2012 the US Department of Justice confirmed that, on the basis of the information currently available, the US was not likely to be in a position to satisfy the necessary thresholds for obtaining the authorisation.

S33(a)(iii)

[Redacted] Following this advice, AGD informed the AFP that we would not be in a position to make a mutual assistance request to the US at this time, but could reconsider this position if there were developments in the investigation.

AGD understands that the AFP investigation is ongoing.

There has been ongoing media interest in this matter, including most recently a media enquiry from Sydney Morning Herald journalist Lenore Taylor on 11 October 2012.

ISSUES ON THIS TOPIC BETTER ANSWERED BY ANOTHER AGENCY/DEPARTMENT

Issue	This issue is a matter for:
Ongoing AFP investigation	AFP



Mutual Assistance Case

Australian Government
Attorney-General's Department

Status: Completed
Case Type: MA - Australian Request
Case Name: Unknown Offender (Operation Mesco)

Case Details	
Case Officer:	flynn
Country:	United States
Trim File Number:	12/7578
Assistance Type:	Request for Internet records
Offence Type:	Theft and related property offences
Assistance:	Assistance sought - all information relating to this request
Request Signed By:	FAS

Activities			
24/10/2012	File closed	AGDNET\flynn	Actioned
24/10/2012	Follow up - from law enforcement / other govt agency	AGDNET\flynn	Actioned
26/09/2012	Follow up - to law enforcement / other govt agency	AGDNET\flynn	Actioned
07/09/2012	Follow Up - to foreign country	AGDNET\flynn	Actioned
31/08/2012	Follow up - from foreign country	AGDNET\flynn	Actioned
08/08/2012	Desensitised email to US currently with Julia Thwalte (PLO) for clearance.	AGDNET\flynn	Actioned
08/08/2012	Follow up - from law enforcement / other govt agency	AGDNET\flynn	Actioned
08/08/2012	Follow up - to law enforcement / other govt agency	AGDNET\flynn	Actioned
31/07/2012	Phone call Flynn (AGD) and de Smet (AFP) clarifying order of events.	AGDNET\flynn	Actioned
27/07/2012	Meeting with AFP regarding progress and next steps in Operation Mesco.	AGDNET\flynn	Actioned
25/07/2012	Phone call between De Smet (AFP) and Flynn (AGD) regarding outstanding factual clarifications.	AGDNET\flynn	Actioned
24/07/2012	Phone call between De Smet (AFP) and Flynn (AGD) regarding outstanding factual clarifications.	AGDNET\flynn	Actioned
24/07/2012	Email Flynn (AGD) to De Smet (AFP) seeking to confirm factual details re: PMC search.	AGDNET\flynn	Actioned
17/07/2012	Draft MAR with Julia for clearance.	AGDNET\flynn	Actioned
17/07/2012	Phone call with de Smet (AFP) - discussing further background to the matter.	AGDNET\flynn	Actioned
04/07/2012	Draft with AFP.	AGDNET\flynn	Actioned
03/07/2012	Draft with comments for the AFP with Eva Logan (Acting PLO) for clearance.	AGDNET\flynn	Actioned
04/06/2012	Clarification email sent to the AFP regarding the information provided in the questionnaire.	AGDNET\flynn	Actioned
29/05/2012	Discussion with Anna Harmer (AS) regarding the progress of the request.	AGDNET\flynn	Actioned
14/05/2012	Email Flynn (AGD) to de Smet (AFP) seeking clarification and further information.	AGDNET\flynn	Actioned
14/05/2012	Telephone conversation between de Smet (AFP) and Flynn (AGD).	AGDNET\flynn	Actioned
11/05/2012	Request assigned to case officer	AGDNET\cartwa	Actioned
11/05/2012	Created	AGDNET\cartwa	Actioned

Requesting Organisations

Agency Name: Australian Federal Police

Agency Type: Commonwealth

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Comments / Notes

US DoJ advises that it would not be able to execute the request on the facts provided. File to be closed pending further information from the AFP investigation.

AGDNET/flymg - 24 October 2012